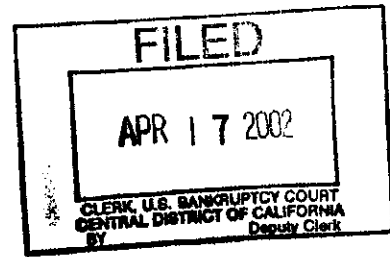


ORIGINAL

Attorney or Party Name, Address, Telephone and Fax Number, and CA State Bar No.

James C. Bastian, Jr. - Bar No. 175415  
**MARSHACK SHULMAN HODGES & BASTIAN LLP**  
26632 Towne Centre, Suite 300  
Foothill Ranch, California 92610  
Telephone: (949) 340-3400  
Facsimile: (949) 340-3000

FOR COURT USE ONLY



**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA**

In re:  
**RNETHEALTH, INC., a Colorado corporation**

Debtor(s).

CASE NO.: **SA 01-18607 JR**  
Chapter 11

**NOTICE OF SALE OF ESTATE PROPERTY**

Sale Date: **Hearing Date: May 7, 2002**

Time: **2:30 P.M.**

Location: **U.S. Bankruptcy Court, Ronald Reagan Federal Building and United States Courthouse,  
411 West Fourth Street, Santa Ana, California 92701**

Type of Sale: ☒ Public

☐ Private

Last date to file objections: **April 23, 2002**

Description of Property to be Sold: Estate's interest in Tobacco School LLC - see the attached Notice of Hearing on Debtor's Motion for Order Authorizing Sale and Assignment of Estate's Interest in Recovery Direct, Inc. Free and Clear of Liens and Approval of Overbid Procedures (the "Hearing Notice")

Terms and Conditions of Sale: See the attached Hearing Notice

Proposed Sale Price: See the attached Hearing Notice

Overbid Procedure (If Any): See the attached Hearing Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

May 7, 2002 at 2:30 P.M., in Courtroom 5A, U.S. Bankruptcy Court, Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, California 92701

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

James C. Bastian, Jr., Esq.  
Marshack Shulman Hodges & Bastian LLP  
26632 Towne Centre, Suite 300, Foothill Ranch, CA 92610  
Telephone: (949) 340-3400; Facsimile: (949) 340-3000

Date: April 17, 2002

FILE COPY

James C. Bastian, Jr. - Bar No. 175415  
**MARSHACK SHULMAN HODGES & BASTIAN LLP**  
26632 Towne Centre, Suite 300  
Foothill Ranch, California 92610-2808  
Telephone: (949) 340-3400  
Facsimile: (949) 340-3000

Attorneys for the Debtor and Debtor in Possession  
RnetHealth, Inc., a Colorado corporation

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**

In re	Case No. SA 01-18607 JR
RNETHEALTH, INC., a Colorado corporation,	Chapter 11
Debtor.	<b>NOTICE OF HEARING ON DEBTOR'S MOTION FOR ORDER AUTHORIZING SALE AND ASSIGNMENT OF ESTATE'S INTEREST IN RECOVERY DIRECT, INC. FREE AND CLEAR OF LIENS AND APPROVAL OF OVERBID PROCEDURES</b>
<u>Debtor's Current Address:</u> 1301 Dove Street Suite 800 Newport Beach, CA 92660	Date: May 7, 2002 Time: 2:30 P.M. Place: Courtroom 5A <i>Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street Santa Ana, California 92701</i>
<u>Debtor's Prior Address:</u> 2600 Michelson Suite 1650 Irvine, CA 92612	
Tax I.D. No. 391731029	

**PLEASE TAKE NOTICE** that on May 7, 2002 at 2:30 P.M., in Courtroom 5A of the above-entitled Court located at Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, California 92701, RnetHealth, Inc., a Colorado corporation, fka RnetHealth.com, Inc., fka Recovery Network, Inc., the Debtor and Debtor in Possession ("Debtor") herein, will bring a Motion For Order Authorizing Sale And Assignment Of Estate's Interest In Recovery Direct, Inc. Free And Clear Of Liens And Approval of Overbid Procedures ("Sale Motion").

**THE PROPOSED RECOVERY DIRECT, INC. SALE**

The principal terms of the Agreement for Purchase and Sale of Assets (the "Recovery Direct Agreement") regarding the estate's interest in Recovery Direct, Inc. ("Recovery Direct") are as follows (to the extent there is any discrepancy between the terms set forth herein below and the terms of the Recovery Direct Agreement, the terms of the Recovery Direct Agreement shall control):

1. Purchase Price. The Buyer has agreed to pay to the Debtor within five (5) business days of the date entry of a Bankruptcy Court order approving the Agreement (the "Effective Date") the sum of Two Hundred Thousand Dollars (\$200,000.00) (the "Purchase Price"), or an amount as increased by a successful overbid, for the purchase of Recovery Direct. The Debtor will transfer ownership upon closing. Closing shall occur upon payment of the Purchase Price (the "Closing Date"). The Debtor and the Recovery Direct Buyer expressly understand and agree that the Debtor is not selling, assigning, transferring or conveying to the Recovery Direct Buyer the properties, rights, contracts, interests, claims and other assets of Debtor related to

any all claims that the Debtor and/or Recovery Direct Inc., may have against Access Television Network, Inc., a Delaware corporation.

2. Payment of the Purchase Price. The Purchase Price shall be payable as follows:

Cash which shall be allocated as agreed among the following Secured Creditors: William Moses (\$16,667); Balmore S.A. (\$33,333); and Ashford Capital LLC (\$.00)	\$50,000.00
Three Promissory Notes in favor of the Secured Creditors in substantially the form as attached as <b>Exhibit "B" to the Recovery Direct Agreement</b> and which shall be allocated as agreed among the following Secured Creditors: William Moses (\$33,333.33); Balmore S.A. (\$66,666.67; and Ashford Capital LLC (\$50,000.00). The Promissory Note shall bear interest of 8% per annum due and payable in 24 months.	\$150,000.00
<b>Total</b>	<b>\$200,000.00</b> or an amount as increased by successful overbid

3. Security Agreement and UCC-1 Financing Statement. To secure payment of the Promissory Note, concurrent with the execution and delivery of the Promissory Note, the Recovery Direct Buyer shall execute and deliver collectively to the Secured Creditors William Moses; Balmore S.A.; and Ashford Capital LLC, a Security Agreement in the form as attached as Exhibit "C" to the Recovery Direct Agreement and a UCC-1 Financing Statement in the form as attached as Exhibit "D" to the Recovery Direct Agreement. Included with Exhibit "C" to the Recovery Direct Agreement is a Collateral Agent Agreement.

4. Bill of Sale: Upon transfer of the Recovery Direct assets to the Recovery Direct Buyer, the Debtor shall execute a Bill of Sale in the form as attached as Exhibit "E" to the Recovery Direct.

5. Transfer of Title. The Debtor shall convey title to Recovery Direct free and clear of any and all liens, charges, claims, security interests or other encumbrances of any nature whatsoever (the "Encumbrances") of the Secured Creditors pursuant to Bankruptcy Code Section 363(f).

6. Good Faith of the Buyer. The Debtor is to seek and obtain a Court finding that the Recovery Direct Buyer is in good faith pursuant to Bankruptcy Code section 363(m).

7. Purchase Without Warranties. The Recovery Direct Buyer acknowledges that it is purchasing the Recovery Direct assets from the Debtor on an "AS IS - WHERE IS" basis without representations or warranties of any kind, express or implied, being given by the Debtor, concerning the value, condition or fitness of purpose for any use thereof, except the representations that Debtor is the sole owner of the Recovery Direct assets; that the liens set forth in Recital 7 of the Recovery Direct Agreement are the only liens on the assets; that the sale is free and clear of all liens; and those representations set forth in Section V of the Recovery Direct Agreement. The Buyer represents and warrants that it is purchasing the Asset as a result of its own investigations and is not buying the Asset pursuant to any representation made by any broker, agent, accountant, attorney or employee acting at the direction or on behalf of the Debtor. The Buyer acknowledges that the Buyer has inspected the Recovery Direct assets, and upon Bankruptcy Court approval of the Recovery Direct Agreement, Recovery Direct Buyer forever waives, for itself, and its successors and assigns, any and all claims against the Debtor, the Debtor's bankruptcy estate, and its attorneys, agents, and employees, arising or which might otherwise arise in the future concerning the Recovery Direct assets.

8. Sales Tax Obligations. All federal, state, local or foreign sales, use, transfer or similar taxes payable in connection with the sale of the Recovery Direct Assets to the Recovery Direct Buyer shall be paid by the Debtor. The Debtor believes that this sale is exempt from sales tax and will seek such determination by the Court.

9. Assumption of Liabilities After Closing. The Recovery Direct Buyer shall assume, pay, and discharge as and when due any and all liabilities and obligations resulting from or related to the Recovery Direct Assets that come due and/or are incurred on or after the Closing Date. Except as expressly set forth in Section II.2. of the Recovery Direct Agreement, the Recovery Direct Buyer shall have no responsibility for liabilities and obligations from or related to the Recovery Direct assets that come due and/or are incurred before the Closing Date, including, without limitation, the claims of the Secured Creditors.

10. Bankruptcy Court Approval. The Recovery Direct Agreement is subject to approval by the United States Bankruptcy Court for the Central District of California, Santa Ana Division with a finding that Recovery Direct Buyer is in good faith pursuant to Bankruptcy Code section 363(m). The Debtor makes no warranties, either express or implied, as to its ability to obtain approval of the Bankruptcy Court, and in the event that the Debtor is unable to obtain said approval, the Recovery Direct Buyer and its related entities and/or successors and assigns shall hold the Debtor and its attorneys, agents and brokers harmless from any and all damages which the Buyer may allege it has suffered as a result thereof. Debtor will ask the Bankruptcy Court to include in its order approving the sale of the Recovery Direct assets a waiver of the stay provided in Fed. R. Bankr. P. 6004(g).

### **NOTICE OF OVERBID PROCEDURES REGARDING THE RECOVERY DIRECT SALE**

The sale contemplated by the Recovery Direct Agreement will be subject to the following overbid procedures:

1. Potential overbidders must bid an initial amount of at least Five Thousand Dollars (\$5,000.00) over the Purchase Price offered by the Recovery Direct Buyer. Minimum bid increments thereafter shall also be Five Thousand Dollars (\$5,000.00). Any consideration received above the Purchase Price shall inure to the benefit of the Debtor's bankruptcy estate, free and clear of the liens of William Moses, Baltimore S.A. and Ashford Capital LLC. No break-up fee shall be paid.

2. Overbids must be in writing and be received by the Debtor's counsel, Marshack Shulman Hodges & Bastian LLP to the attention of James C. Bastian, Jr. by no less than three (3) days prior to the hearing on this Sale Motion seeking approval of the Recovery Direct Agreement.

3. Overbids must be accompanied by certified funds in an amount equal to Ten Percent (10%) of the overbid purchase price.

4. The overbidder must seek to acquire the Recovery Direct assets on terms and conditions not less favorable to the Debtor's bankruptcy estate than the terms and conditions to which the Recovery Direct Buyer has agreed to purchase the Recovery Direct assets as set forth in the Recovery Direct Agreement and any competing bidder must be obligated to perform within the same time that the Recovery Direct Buyer would be obligated to perform under the Recovery Direct Agreement.

5. If overbids are received, the final bidding round shall be held concurrent with the Bankruptcy Court hearing on this Sale Motion for an order approving the Recovery Direct Agreement in order to allow all potential bidders the opportunity to overbid and purchase the Asset.

6. The overbidder's deposit shall be refunded within five (5) days of the final bidding round in the event that the overbidder is outbid.

### **CASE BACKGROUND INFORMATION**

The Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code on October 16, , 2001 (the "Petition Date"). The Debtor is continuing in the operation and management of its business pursuant to Bankruptcy Code Sections 1107 and 1108. Prior to the Petition Date, the Debtor's business consisted of a suite of interactive tools and products, available via individual or employer subscription, for consumers seeking active solutions to their behavioral health and general wellness issues.

Postpetition, the Debtor intends to reorganize first through the sale of certain assets and interests in third party entities.

The Debtor is the sole shareholder of Recovery Direct, Inc. Joe Wood, a principal of the buyer in this sale transaction, is the president of Recovery Direct, Inc. and is also a shareholder of the Debtor. In addition, Mr. Wood is a former shareholder of Recovery Direct prior to its purchase by the Debtor.

**A. Events Leading To The Bankruptcy Filing**

Facing financial difficulties arising from a lack of profitability and a lack of capital, approximately eight months prior to the Petition Date, the Debtor entered into a merger transaction with a private company, Access Television Network ("Access TV"). The Debtor moved its operations into Access TV's offices and the majority of the Debtor's operations were taken over by Access TV's management. However, after only a few months, after Access TV ran up the Debtor's bills in an amount exceeding \$500,000, Access TV backed out of the merger transaction leaving the Debtor in an even more financially troubled situation than prior to the commencement of the merger. During the attempted merger, Debtor incurred additional liabilities exceeding \$600,000 to law firms, accountants, various consultants and employees. In addition, the Debtor lost two employee lawsuits that went uncontested resulting in additional liabilities of approximately \$700,000.

The Debtor commenced the Chapter 11 bankruptcy case to preserve the value of its assets until either a restructuring of the company could be developed or a reorganization strategy is developed that may include a sale of some or substantially all of the Debtor's assets as a going concern. In addition, the Debtor anticipates that it will be employing special counsel to prosecute the estate's claims against Access TV arising from the failed merger transaction (the "Access TV Action").

**B. The Debtor's Secured Obligations**

The Debtor's interest in Recovery Direct which is the subject of the proposed sale (sometimes referred to herein as the "Asset") is subject to the secured interests of certain creditors as follows (collectively the "Secured Creditors"):

<u>Secured Creditor</u>	<u>Description of Secured Interest</u>	<u>Approximate Amount</u>
William Moses	Convertible Note, Collateral Agreement and Security Agreement dated May 30, 2001	\$50,000.00
Baltimore S.A.	Convertible Note, Collateral Agreement and Security Agreement dated May 30, 2001	\$100,000.00
BET Capital	UCC-1 Financing Statement filed with the California Secretary of State on or about August 2, 2001, Filing No. 0121460249	\$50,000.00  See the Bankruptcy Code Section 506(c) Surcharge discussion below wherein this claim will be subordinated to professional fees and to allow a percentage of additional recoveries in this case to paid to general unsecured creditors prior to this claim being paid in full.

<u>Secured Creditor</u>	<u>Description of Secured Interest</u>	<u>Approximate Amount</u>
Worldcom aka MCI Telecommunications	UCC-1 Judgment Lien filed with the California Secretary of State on or about August 27, 2001, Filing No. 0124260118	\$74,926.15 This lien is disputed – the Debtor believes that there are causes of action to have this lien set aside under Bankruptcy Code Sections 547 and/or 548 as the lien was recorded within 90 days prior to the Petition Date.
Jay Handline	UCC-1 Judgment Lien filed with the California Secretary of State on or about October 22, 2001, Filing No. 0129760262	\$424,030.70 This lien is disputed – the Debtor believes that there are causes of action to have this lien set aside under Bankruptcy Code Section 549 as the lien was recorded after the Petition Date without Court approval.
Barbara Mittman	UCC-1 Financing Statement filed with the California Secretary of State on or about January 29, 1999, Filing No. 9903660585	Unknown Disputed This lien is disputed – the Debtor believes that there are causes of action to have this lien set aside or that the debt is not owed.

	<u>Description of Secured Interest</u>	<u>Approximate Amount</u>
Ashford Capital LLC	<p>UCC-Financing Statement filed on or about August 2, 2001, Filing No. 0121460251</p> <p>UCC-Financing Statement filed with the California Secretary of State on or about August 20, 2001, Filing No. 0123560286</p> <p>UCC-Financing Statement filed with the California Secretary of State on or about August 6, 2001, Filing No. 0121860764</p> <p>UCC-Financing Statement filed with the California Secretary of State on or about July 25, 2001, Filing No. 0121160602</p> <p>UCC-Financing Statement filed with the Colorado Secretary of State on or about September 7, Filing No. 20012080985</p> <p>UCC-Financing Statement filed on or about August 28, 2001, Filing No. 20012077123</p> <p>UCC-Financing Statement filed with the Colorado Secretary of State on or about August 28, 2001, Filing No. 20012077124</p>	<p>\$100,000.00</p> <p>Subject to the Investigation Period and a final determination on the Lien Objection of Handline, if any, the lien of Ashford Capital LLC may be reduced by the amount of up to \$75,000, through the Health Challenge and Recovery Direct sales. If it receives the full \$75,000, Ashford Capital LLC has agreed to accept such amount in full satisfaction of its claim. Thereafter, any remaining lien of Ashford Capital LLC up to the amount of \$75,000, shall attach to the net sale proceeds and remaining assets of the estate in the same validity and priority as prior to the Petition Date, subject to a Bankruptcy Code Section 506(c) surcharge and a subordination agreement to allow a percentage of additional recoveries in this case to paid to general unsecured creditors prior to this claim being paid in full.</p>
Robert E. Portrie	<p>UCC-Financing Statement filed with the California Secretary of State on or about September 19, 2001, Filing No. 0126460466</p>	<p>\$12,500.00</p> <p>See the Bankruptcy Code Section 506(c) Surcharge discussion below wherein this claim will be subordinated to professional fees and to allow a percentage of additional recoveries in this case to paid to general unsecured creditors prior to this claim being paid in full.</p>

<u>Secured Creditor</u>	<u>Description of Secured Interest</u>	<u>Approximate Amount</u>
Wendy Borow-Johnson	UCC-Financing Statement filed with the California Secretary of State on or about September 25, 2001, Filing No. 0126960790	\$120,000.00  See the Bankruptcy Code Section 506(c) Surcharge discussion below wherein this claim will be subordinated to professional fees and to allow a percentage of additional recoveries in this case to paid to general unsecured creditors prior to this claim being paid in full.

Under a proposed sale of the Debtor's approximate 14 and 2/3% membership interest in Health Challenge LLC aka Wellness Challenge aka Art Ulene's Wellness Challenge ("Health Challenge") to Sickbay Health Media, Inc., a Utah corporation for a purchase price of \$50,000, the Debtor will distribute \$25,000 to Ashford Capital LLC subject to the Investigation Period and a final Determination on the Lien Objection of Handline discussed below. *The remaining \$25,000 proceeds from the sale of Health Challenge shall be earmarked for distribution to professionals employed by the estate pursuant to a Bankruptcy Code Section 506(c) Surcharge (the "Surcharge") agreed to by the undisputed Secured Creditors, to pay the firm's allowed fees and expenses upon further application and Court order. At a Court hearing held on April 11, 2002, the motion for approval of the sale of Debtor's membership interest in Health Challenge was approved and the sale is anticipated to close the week of April 15, 2002.*

Pursuant to the Court approved Health Challenge sale, \$25,000 of the sale proceeds shall be held by Debtor's counsel in a segregated interest bearing account to allow creditor Jay Handline ("Handline") to investigate the validity of the Ashford Capital LLC lien (the "Lien Funds Account"). Within fifteen (15) days of the date of entry of the order approving the Health Challenge sale, the Debtor shall provide Handline through his counsel Dempsey & Johnson P.C., a copy of any and all documents and/or information in its possession related to the Ashford Capital LLC liens and support for the validity of the such liens indicating why such liens are not subject to avoidance. Handline shall have thirty (30) days from the date of delivery of such information and support to investigate the Ashford Capital LLC liens and to file with the Court and serve on the Debtor, the Debtor's counsel and Ashford Capital LLC an objection to the liens of Ashford Capital LLC (the "Investigation Period"). Upon the expiration of the Investigation Period, if no timely objection to challenge the validity of Ashford Capital LLC's liens has been filed with the Court and served on the Debtor, the Debtor's counsel and Ashford Capital LLC (the "Lien Objection"), the \$25,000, plus all accrued interest held in the Lien Funds Account, shall be released to Ashford Capital LLC without further notice, hearing or Court order, and the lien of Ashford Capital LLC will be reduced by \$25,000. In the event that a Lien Objection is pending upon the expiration of the Investigation Period, the \$25,000, shall continue to be held by Debtor's counsel in the Lien Funds Account pending a final determination on the Lien Objection.

Pursuant to a proposed sale of the Debtor's a twenty percent (20%) ownership interest in Tobacco School LLC, an entity organized and based in Ottawa, Canada ("Tobacco School") to Robert E. Portrie ("Mr. Portrie") and George A. Henry ("Mr. Henry") for \$10,000, the lien of Mr. Portrie will be reduced to \$7,500. A motion for approval of the sale of the Debtor's interest in Tobacco School is anticipated to be filed concurrently herewith.

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Encumbrances Under the Recovery Direct Sale

Proceeds shall be allocated as agreed among the following Secured Creditors: William Moses; Baltimore S.A. and Ashford Capital LLC	\$50,000.00
Three Promissory Notes in favor of the Secured Creditors in substantially the form as attached as Exhibit "B" to the Agreement and which shall be allocated as agreed among the following Secured Creditors: William Moses (\$33,333.33); Baltimore S.A. (\$66,666.67; and Ashford Capital LLC (\$50,000.00). The Promissory Note shall bear interest of 8% per annum due and payable in 24 months.	\$150,000.00
Total	\$200,000.00 or an amount as increased by successful overbid

Thus, the liens of William Moses and Baltimore S.A. shall be released in their entirety, the lien of Ashford Capital LLC shall be reduced by \$50,000 (the lien of Ashford Capital LLC will be further reduced \$25,000 under the Health Challenge sale discussed below) and the liens of the remaining Secured Creditors shall attach to the remaining assets of the bankruptcy estate in the same validity and priority as prior to the Petition Date. Also, see the further discussion below regarding the Bankruptcy Code Section 506(c) surcharge.

**D. Summary of the Combined Sales of Recovery Direct, Health Challenge and Tobacco School**

In summary, through the combined proposed sales of Recovery Direct, Health Challenge and Tobacco School, the total gross sale proceeds are anticipated to be at least \$260,000. Under the combined sales of Recovery Direct, Health Challenge and Tobacco School, the liens of William Moses and Baltimore S.A. shall be released in their entirety, subject to the Investigation Period and Lien Objection of Handline the lien of Ashford Capital LLC shall be satisfied through a payment of \$75,000, and the lien of Robert E. Portrie shall be reduced to \$7,500. The remaining sale proceeds of approximately \$30,000 shall be earmarked for the Surcharge for professionals employed by the estate. Under the combined sales, liens of the remaining Secured Creditors shall attach to the remaining assets of the bankruptcy estate in the same validity and priority as prior to the Petition Date. It is anticipated that pursuit of the Access TV Action will provide the funds for payment of the remaining Secured Creditors and for funding a plan of reorganization and distribution to unsecured creditors.

**E. Surcharge Under Bankruptcy Code Section 506(c)**

BET Capital, Robert E. Portrie and Wendy Borow-Johnson have each agreed that they will not obtain any recovery on account of their secured claims from this sale and other sales of the bankruptcy estate to be proposed concurrent herewith. BET Capital, Robert E. Portrie and Wendy Borow-Johnson have agreed to subordinate their secured claim to professional fees and will allow a percentage of additional recovery from assets of the estate to be paid to general unsecured creditors prior to their secured claims being paid in full.

Pursuant to Court order entered on or about January 3, 2002, the Debtor was authorized to employ Marshack Shulman Hodges & Bastian LLP as its general counsel herein (the "Professionals"). In the preservation and disposal of the Asset, which constituted the alleged collateral of the Secured Creditors herein, as of March 31, 2002, the Professionals have incurred reasonable and necessary fees and expenses of at least the following amounts:

	<u>Fees</u>	<u>Expenses</u>
Marshack Shulman Hodges & Bastian LLP October 16, 2002 to March 31, 2002	\$40,796.00	\$2,876.67

Pursuant to Bankruptcy Code Section 506(c) the Debtor requests authorization to Surcharge the collateral of any lienholders who have not entered into subordination agreements with the Debtor for the costs the estate may have incurred in the maintenance of their respective collateral as well as with the preservation and disposition of such collateral. Secured Creditors whose liens are not being satisfied and who have not consented to the Surcharge through subordination agreements with the Debtor are Worldcom aka MCI Telecommunications, Jay Handline, and Barbara Mittman. The Debtor and its professionals believe that their diligent efforts to preserve and dispose of the Secured Creditors' collateral clearly has benefited the collateral. Moreover, the Debtor believes all of the efforts of the professionals in this case were directly related to the preservation and eventual disposition of Secured Creditors' collateral. Thus, surcharging Secured Creditors' collateral under Bankruptcy Code Section 506(c) is appropriate. Payment to professionals covered by the Surcharge will be subject to further application and Court order on the allowance of the professionals' fees and expenses under the applicable provisions of the Bankruptcy Code. The Debtor's professionals will be filing applications for fees in accordance with the applicable provisions of the Bankruptcy Code which will detail that their fees are reasonable, necessary and benefited the Secured Creditors. The funds from the sale of the Asset will be held by the Debtor in a Surcharge account subject to the fee application process under the applicable provisions of the Bankruptcy Code.

#### **F. Marketing Efforts**

Since about June, 2001, the Debtor has conducted negotiations with a number of prospective acquirers of the Debtor's assets. Since the Petition Date, the Debtor has had extensive discussions with potential merger partners and acquirers of assets including Recovery Direct. Notwithstanding these discussions, HOJO, Inc., is the only party to come forward with written offer for the purchase of Recovery Direct. The Debtor has pursued negotiations with these parties in order to achieve the most favorable terms for the sale of the Debtor's interest in the Recovery Direct. A copy of the Notice of the hearing on the Sale Motion will be provided to these parties and others to solicit an overbid. However, based on the specialized nature of the Debtor's interest in Recovery Direct, the Debtor does not believe that there is an extensive market for this asset. Indeed, the Debtor believes that but for this proposal, the Debtor would possibly have to abandon its interest in Recovery Direct. The Debtor will provide notice of this Sale Motion to parties who are in the recovery industry and who the Debtor believes may have an interest in the purchase of the Asset.

#### **G. The Proposed Sale Serves The Best Interests Of The Estate**

The Debtor has made a business decision that it is in the best interest of the creditors of this estate that this Sale Motion be approved. Due to the amount of liens and encumbrances and operating costs, without additional financing and/or a plan partner, the Debtor does not believe that its business can be reorganized. Furthermore, if the Sale Motion is not approved, the Debtor may be unable to find other buyers for the Asset and will likely lose the Asset through a foreclosure sale by the Secured Creditors. However, through this Sale Motion, the Debtor will preserve an opportunity for creditors to receive something on account of their claims.

The Debtor acknowledges that, in light of secured claims, there will be no distribution to unsecured creditors pursuant to the Recovery Direct Buyer's offer. Nevertheless, the Debtor believes that allowing the Debtor to attempt to sell its interest in Recovery Direct through an auction proceeding is more favorable for unsecured creditors than the only alternative now facing the Debtor - Secured Creditors foreclosing on the Debtor's Asset. An auction proceeding offers unsecured creditors their only hope of receiving any distribution on account of their claims.

The sale transaction is subject to auction proceedings. The Recovery Direct Agreement contains no material impediments to competitive bidding for the Recovery Direct assets. The proposed Recovery Direct Buyer's bid is effectively a "stalking horse" bid which may serve to elicit competitive bids. In the event that

overbids for the Debtor's interest in Recovery Direct are received, a more meaningful distribution to be made on account of unsecured claims will be possible. On the other hand, if no overbids are received and the sale to the Recovery Direct Buyer proposed herein is authorized, unsecured creditors will be better off than they would have been had Secured Creditors foreclosed on the Asset. Under such circumstances, it is estimated that there will at least be an opportunity for a nominal fund to be established for a recovery for unsecured creditors.

In addition, the Debtor believes that the proposed sale to the Recovery Direct Buyer as set forth herein provides the maximum possible value for the Debtor's interest in Recovery Direct. The Debtor has marketed for sale all of its business assets and has been in discussions with several parties. While the Debtor and other parties in interest have previously asserted that the Debtor's assets may be worth substantially more than the purchase price set forth herein, the reality of this case is that no buyer has stepped forward offering such believed fair market value. As a result, the Debtor is forced to sell now because of no additional financing sources and an immediate offer that avoids conversion or foreclosure. Because the Debtor is in touch with the potential market for purchasers of the Debtor's assets and has gone through the process attempting to market and sell the assets, the Debtor believes that the proposed sale herein is in the best interests of the estate and creditors. Moreover, in order to determine whether or not the other potential purchasers are interested in overbidding, notice of sale will be provided to all parties which were in contact with the Debtor regarding a possible purchase of assets of the bankruptcy estate.

In summary, the Debtor has concluded that the best available option to preserve value for creditors is to consent to sell the Debtor's interest in Recovery Direct on terms at least equal to those set forth herein and create the opportunity for overbids through this procedure. The Debtor has concluded that reorganization of its business affairs is impossible without additional funding which it cannot secure at this time despite conscientious efforts. As a result, the sale of the Debtor's interest in Recovery Direct through the Chapter 11 process and the protections accorded under Bankruptcy Code Section 363 is the best and only means to maximize recovery for creditors of this estate.

Accordingly, under the facts of this case, the Debtor respectfully submits that this Court should approve the Sale Motion and thereby allow the Debtor to maximize the value of the Debtor's assets for the benefit of the Debtor's creditors.

For further information please see the Motion For Order Authorizing Sale And Assignment Of Estate's Interest In Recovery Direct, Inc. Free And Clear Of Liens And Approval of Overbid Procedures; Memorandum of Points and Authorities and Declaration of Wendy Borow-Johnson in Support on file with the Clerk of the above-entitled Court which may be reviewed on Monday through Friday from 9:00 A.M. to 4:00 P.M. A copy of the Sale Motion may be obtained by written request to the Debtor's counsel Marshack Shulman Hodges & Bastian LLP to the attention of James C. Bastian, Jr. at the address indicated above.

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, shall be filed with the Clerk of the above Court and a copy served upon Marshack Shulman Hodges & Bastian LLP to the attention of James C. Bastian, Jr., 26632 Towne Centre, Suite 300, Foothill Ranch, California 92610 and the Office of the United States Trustee, Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, #9041, Santa Ana, California 92701-8000 no later than fourteen (14) days prior to the scheduled hearing. Failure to file a timely response may be deemed as consent to the relief requested in the Motion. **SEE, LOCAL BANKRUPTCY RULE 9013-1(a)(7).**

Dated: April 12, 2002

**MARSHACK SHULMAN HODGES & BASTIAN LLP**



James C. Bastian, Jr.  
Attorneys for the Debtor and Debtor in Possession,  
RnetHelath, Inc., a Colorado corporation